

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

A Bill

HOUSE BILL 1633

5 By: Representative Reep
6
7

For An Act To Be Entitled

9 AN ACT TO CLARIFY THE AUTHORITY OF FOSTER PARENTS
10 AND PREADOPTIVE PARENTS REGARDING CONSENT TO
11 MEDICAL TREATMENT; AND FOR OTHER PURPOSES.
12

Subtitle

13 AN ACT TO CLARIFY THE AUTHORITY OF
14 FOSTER PARENTS AND PREADOPTIVE PARENTS
15 REGARDING CONSENT TO MEDICAL TREATMENT.
16
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 20-9-602 is amended to read as follows:
22 20-9-602. Consent generally.

23 It is recognized and established that, in addition to ~~such other~~
24 ~~persons as may be so authorized and empowered~~ other authorized persons, any
25 one (1) of the following persons is ~~authorized and empowered to~~ may consent,
26 either orally or otherwise, to any surgical or medical treatment or procedure
27 not prohibited by law ~~which may be~~ that is suggested, recommended,
28 prescribed, or directed by a licensed physician:

29 (1) Any adult, for himself or herself;

30 (2)(A) Any parent, whether an adult or a minor, for his or her
31 minor child or for his or her adult child of unsound mind whether the child
32 is of the parent's blood, an adopted child, or a stepchild, ~~or a foster~~
33 ~~child~~.

34 (B) However, the father of an illegitimate child cannot
35 consent for the child solely on the basis of parenthood;

36 (3) Any married person, whether an adult or a minor, for himself



1 or herself;

2 (4) Any female, regardless of age or marital status, for herself
3 when given in connection with pregnancy or childbirth, except the unnatural
4 interruption of a pregnancy;

5 (5) Any person standing in loco parentis, whether formally
6 serving or not, and any guardian, conservator, or custodian, for his or her
7 ward or other charge under disability;

8 (6) Any emancipated minor, for himself or herself;

9 (7) Any unemancipated minor of sufficient intelligence to
10 understand and appreciate the consequences of the proposed surgical or
11 medical treatment or procedures, for himself or herself;

12 (8) Any adult, for his or her minor sibling or his or her adult
13 sibling of unsound mind;

14 (9) During the absence of a parent so authorized and empowered,
15 any maternal grandparent and, if the father is so authorized and empowered,
16 any paternal grandparent, for his or her minor grandchild or for his or her
17 adult grandchild of unsound mind;

18 (10) Any married person, for a spouse of unsound mind;

19 (11) Any adult child, for his or her mother or father of unsound
20 mind; ~~and~~

21 (12) Any minor incarcerated in the Department of Correction or
22 the Department of Community Correction, for himself or herself; ~~and~~

23 (13)(A) Any foster parent or preadoptive parent for a child in
24 custody of the Department of Human Services in:

25 (i)(a) Emergency situations.

26 (b) As used in this subdivision, "emergency
27 situation" means a situation in which, in competent medical judgment, the
28 proposed surgical or medical treatment or procedures are immediately or
29 imminently necessary and any delay occasioned by an attempt to obtain a
30 consent would reasonably be expected to jeopardize the life, health, or
31 safety of the person affected or would reasonably be expected to result in
32 disfigurement or impaired faculties;

33 (ii) Routine medical treatment;

34 (iii) Procedures by a foster child's primary care
35 physician;

36 (iv) Ongoing medical treatment; and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

(v) Procedures by a specialty physician.

(B) A nonemergency surgical procedure or a nonemergency
invasive procedure requires the consent of a representative of the Department
of Human Services.